

United States District Court
for the
Eastern District of New York

ONEWEST BANK, N.A.

Plaintiff,

v.

MARCO RUIZ; MERCEDES RUIZ; PNC
BANK, NATIONAL ASSOCIATION
SUCCESSOR BY MERGER TO
NATIONAL CITY BANK; NEW YORK
CITY PARKING VIOLATIONS BUREAU;
NEW YORK CITY ENVIRONMENTAL
CONTROL BOARD; NEW YORK CITY
TRANSIT ADJUDICATION BUREAU;
MR. ARTINEZ; MARIA COLON;
MONICA LOPEZ,

Defendants.

Civil Action No. 14-cv-3207

AMENDED
COMPLAINT

Plaintiff, by its attorneys Gross Polowy, LLC, for its complaint against the Defendants
allege as follows:

INTRODUCTION

1. This action is brought pursuant to New York Real Property Actions and Proceeding Law (RPAPL) Article 13, to foreclose a mortgage encumbering 134-09 Hawtree Street, Ozone Park, New York 11417, together with the land, buildings, and other improvements located on the property (“the property”). The legal description of the property is attached as Schedule A.

PARTIES

2. Plaintiff is a National Association with its principal place of business at 888 East Walnut Street, Pasadena, California 91101, the holder of the note secured by the mortgage and the mortgagee, or was delegated authority to institute this mortgage foreclosure action by the owner

and holder of the note and mortgage.

3. Defendant Marco Ruiz is a citizen of New York, and the owner of the property.

4. Defendant Mercedes Ruiz is a citizen of New York, and the owner of the property.

5. Defendant Mr. Artinez is a citizen of New York, and a tenant of the property.

6. Defendant Maria Colon is a citizen of New York, and a tenant of the property.

7. Defendant Monica Lopez is a citizen of New York, and a tenant of the property.

8. Defendant PNC Bank, National Association successor by merger to National City Bank is a corporation or other business entity formed under the laws of Delaware with its principal place of business in Delaware, and the holder of a lien encumbering the property, which is subject and subordinate to Plaintiff's mortgage.

9. Defendant New York City Parking Violations Bureau is a city agency existing under the laws of New York with its principal place of business in New York, and the holder of a lien encumbering the property, which is subject and subordinate to Plaintiff's mortgage.

10. Defendant New York City Environmental Control Board is a city agency existing under the laws of New York with its principal place of business in New York, and the holder of a lien encumbering the property, which is subject and subordinate to Plaintiff's mortgage.

11. Defendant New York City Transit Adjudication Bureau is a city agency existing under the laws of New York with its principal place of business in New York, and the holder of a lien encumbering the property, which is subject and subordinate to Plaintiff's mortgage.

12. The defendant(s) claim an interest or lien encumbering the property, which is either subordinate to Plaintiff's mortgage, or paid in full, equitably subordinated, or adverse to Plaintiff's mortgage. The interest or lien of each defendant is attached as Schedule B.

13. The interest or lien of any governmental entity of the United States, State, City or

local government is attached as Schedule C.

STATEMENT OF JURISDICTION

14. Federal subject matter jurisdiction exists pursuant to 28 USC Section 1332 because complete diversity exists among the defendants and the amount in controversy, without interest and costs, exceeds the \$75,000.00.

VENUE

15. Venue is proper pursuant to 28 USC Section 1391 because the property is located in this District and a substantial part of the events and omissions giving rise to this action occurred in this District.

FACTUAL BACKGROUND

16. On or about July 23, 2007, Marco Ruiz and Mercedes Ruiz executed and delivered a note whereby they promised to pay the sum of \$492,000.00 plus interest on the unpaid amount due.

17. As security for the payment of the note, Marco Ruiz and Mercedes Ruiz duly executed and delivered a mortgage on the property, which was recorded as follows:

Recording Date:	August 28, 2007
CRFN:	2007000443480
City Register of:	New York City, Queens County

The mortgage was subsequently modified on August 11, 2009. Any mortgage tax due on the modification or consolidation will be paid as required.

18. The mortgage was assigned to OneWest Bank, FSB. OneWest Bank, NA is formerly known as OneWest Bank, FSB.

19. Marco Ruiz and Mercedes Ruiz failed to make payment in accordance with the terms of the note and mortgage by not making the payment due on December 1, 2010 and

subsequent payments. Accordingly, Plaintiff hereby accelerates the payments and declares due the entire amount owed on the note and secured by the mortgage.

20. There is now due and owing on the note and mortgage the following amounts:

Principal balance: \$496,825.59

Interest Rate: 3.00%

Date interest accrues from: November 1, 2010

together with late charges, monies advanced for taxes, assessments, insurance, maintenance, and preservation of the property, and the costs, allowances, expenses of sale, and reasonable attorney's fees for the foreclosure.

21. In order to protect the value of the property and its rights in the property, the Plaintiff may have to pay taxes, assessments, water charges, insurance premiums, and other charges. Plaintiff requests that any amount it pays, together with interest, be included in the total amount due.

22. Plaintiff has complied with the notice provision of the mortgage and RPAPL Section 1304 and filed the information required by RPAPL Section 1306. The mortgage was originated in compliance with all provisions of section 595-a of the New York Banking Law and any rules or regulations promulgated thereunder, and, if applicable, sections 6-l or 6-m of the Banking law.

23. No action was brought to recover any part of the mortgage debt or if any such action is pending final judgment for Plaintiff was not rendered and it is the intent of the Plaintiff to discontinue it.

WHEREFORE, PLAINTIFF DEMANDS:

- a. Judgment determining the amount due Plaintiff for principal, interest, late charges, taxes, assessments, insurance, maintenance and preservation of the property and other similar charges, together with costs, allowances, expenses of sale, reasonable attorney's fees, all with interest.

- b. A referee be appointed to sell the property at auction to the highest bidder, in accordance with to RPAPL Article 13.
- c. The interest of the defendant(s) and all persons claiming by or through them be foreclosed and their title, right, claim, lien, interest or equity of redemption to the property be forever extinguished.
- d. The Plaintiff be paid out of the sale proceeds the amounts due for principal, interest, late charges, taxes, assessments, insurance, maintenance and preservation of the property, and other similar charges, together with costs, allowances, expenses of sale, reasonable attorney's fees, all with interest, and that the sale proceeds be distributed in accordance with to RPAPL Article 13.
- e. The property be sold in as is condition, subject to the facts an inspection or accurate survey of the property would disclose, covenants, restrictions, easements and public utility agreements of record, building and zoning ordinances and violations, and the equity of redemption of the United States of America.
- f. Plaintiff may purchase the property at the sale.
- g. A receiver be appointed for the property, if requested by Plaintiff
- h. A deficiency judgment against all obligors on the note, for the amount that remains due after distribution of the sale proceeds, unless the debt was discharged in a bankruptcy, be granted if requested by Plaintiff.
- i. If the Plaintiff possesses other liens against the property, they not merge with the mortgage being foreclosed and that Plaintiff, as a subordinate lien holder, be allowed to share in any surplus proceeds resulting from the sale.
- j. The Court award Plaintiff additional relief that is just, equitable and proper.

Dated: Amherst, New York
October 3, 2014

By:
/s/ Keith R. Young, Esq.
Keith R. Young, Esq.
Gross Polowy, LLC
Attorneys for Plaintiff
25 Northpointe Parkway, Suite 25
Amherst, NY 14228
Tel.: 716-204-1700

Schedule A - Legal Description



1525 Walnut Hill Lane - #300, Irving, TX 75038 PH: 800-678-8016

Client Reference No.: 140089586

**SCHEDULE A
DESCRIPTION OF MORTGAGED PREMISES**

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Queens, County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at a point on the Easterly side of 99th Street (formerly Hawtree Avenue and Hawtree Street), distant 362.50 feet Northerly from the corner formed by the intersection of the Northerly side of Linden Boulevard (formerly Dumont Avenue) with the Easterly side of said 99th Street;

RUNNING THENCE Easterly at right angles to the Easterly side of 99th Street and part of the distance through a party wall, 62 feet;

THENCE Northerly parallel with the easterly side of 99th Street, 27.50 feet;

THENCE Westerly again at right angles to the Easterly side of 99th Street, 62 feet to the easterly side of 99th Street;

THENCE Southerly along the Easterly side of 99th Street, 27.50 feet to the point or place of BEGINNING.

Schedule A

Schedule B-Defendants

MARCO RUIZ	Record owner and original mortgagor
MERCEDES RUIZ	Record owner and original mortgagor
MR. ARTINEZ	Tenant of the property.
MARIA COLON	Tenant of the property.
MONICA LOPEZ	Tenant of the property.
PNC BANK, NATONAL ASSOCIATION SUCCESSOR BY MERGER TO NATIONAL CITY	Holder of a mortgage.

Schedule C - Defendants

NEW YORK CITY ENVIRONMENTAL CONTROL BOARD	Holder of possible judgments against Marco Ruiz and/or Mercedes Ruiz.
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NEW YORK CITY PARKING VIOLATIONS BUREAU	Holder of possible judgments against Marco Ruiz, and/or Mercedes Ruiz, see attached.
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NEW YORK CITY TRANSIT ADJUDICATION BUREAU	Holder of possible judgments against Marco Ruiz and/or Mercedes Ruiz, judgments cannot be certified since docket books are missing.
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REPORT-ID: SMRPT315
REPORT PAGE: 9847

NYC PARKING VIOLATIONS BUREAU
JUDGMENT DOCKET BOOK

VOLUME: 17 VOLUME PAGE: 247
DATA AS OF : 04/05/14
J-# J-AMT J-INT PLT OR SUM ST


* * * * * JUDGMENT DEBTOR * * * * * A D D R E S S * * * * *									
J-#	J-AMT	J-INT	PLT	OR	SUM	ST			
RUIZ LUIS	1300 CHISHOLM ST	BRONX	NY10459	2	250	155.82	DRF3626		
RUIZ LUIS	5610 WOODSIDE AVE #	WOODSIDE	NY11377	1	140	5.11	EGR7491		
RUIZ LUIS	1400 GRAND CONCOURSE	BRONX NY	10456	1	175	.00	7970111518		
RUIZ LUIS A	600 CONCORD AVE # 5I	BRONX	NY10455	1	225	100.85	CWW9392		
RUIZ LUIS A	469 57TH ST # 1	BROOKLYN	NY11220	1	140	2.95	DYB9083		
RUIZ LUIS A	690 EVERGREEN AVE #	BROOKLYN	NY11207	1	125	18.51	EKC4937		
RUIZ LUIS A	37 LAFORGE AVE	STATEN ISLAND	NY10302	1	76	15.33	EPR8436		
RUIZ LUIS A	690 EVERGREEN AVE #	BROOKLYN	NY11207	2	200	44.86	FJX4308		
RUIZ LUIS A	690 EVERGREEN AVE #	BROOKLYN	NY11207	1	105	16.25	FTB3013		
RUIZ LUIS A	79 N OXFORD WLK # 13	BROOKLYN	NY11205	1	175	27.69	FXV8556		
RUIZ LUIS A	37 LAFORGE AVE	STATEN ISLAND	NY10302	1	17	3.29	FZD7750		
RUIZ LUIS D	1874 MADISON ST # 1R	RIDGEWOOD	NY11385	2	280	.14	GAR4048		
RUIZ LUIS F	4242 JUDGE ST # 5F	ELMHURST	NY11373	2	280	183.63	AMJ1475		
RUIZ LUIS F	360 E 195TH ST # 4D	BRONX	NY10458	10	1370	20.71	GGF1324		
RUIZ LUIS G	4 SHERIDAN AVE	STATEN ISLAND	NY10304	2	150	15.42	BGDS39		
RUIZ LUIS G	220 BEACH 99TH ST #	ROCKAWAY PARK	NY11694	1	125	11.70	FLA9593		
RUIZ LUIS M	115 PAYSON AVE BSMT	NEW YORK	NY10034	4	526	363.23	DJU2443		
RUIZ LUIS M	2082 HUGHES AVE # 46	BRONX	NY10457	3	305	27.99	ERK3836		
RUIZ LUIS S	3225 51ST ST	WOODSIDE	NY11377	2	180	74.99	DUW8334		
RUIZ LUISA M	366 S 2ND ST	BROOKLYN	NY11211	6	593	135.89	AXT9411		
RUIZ LUZ E	2065ST RAYMONDS AV1A	BRONX	NY10462	3	285	64.31	DLJ4263		
RUIZ LUZ Y	10323 108TH ST	SOUTH RICHMOND	NY11419	4	470	8.02	DHH4179		
RUIZ MADELINE	3 MCKIBBEN CT # 2	BROOKLYN	NY11206	2	205	39.07	FGD9891		
RUIZ MANUEL	3506 HULL AVE # 5I	BRONX	NY10467	5	625	287.50	CWV1376		
RUIZ MANUEL	174 KNICKERBOCKER AV	BROOKLYN	NY11237	3	285	3.51	FXG1718		
RUIZ MANUEL H	8048 59TH ST # 2	GLENDALE	NY11385	1	125	1.38	GKF1327		
RUIZ MARCO A	13409 HAWTREE ST # 1	OZONE PARK	NY11417	2	300	2.07	FWF5689		
RUIZ MARGARITA	1407 W 8TH ST # 1C	BROOKLYN	NY11204	1	155	.35	DTN5021		
RUIZ MARGARITA	206 NEWPORT ST # 1D	BROOKLYN	NY11212	2	225	83.14	575502		
RUIZ MARI	340 CHERRY ST	NYC NY	10002	1	155	.00	7306331796		
RUIZ MARI	340 CHERRY ST	NYC NY	10002	1	125	.00	7965438070		
RUIZ MARI	340 CHERRY ST #1H	NYC NY	10002	1	75	.00	5066228627		
RUIZ MARIA	215 BUSH ST # 4C	BRONX	NY10457	3	355	57.64	AGF2146		
RUIZ MARIA A	769 MELROSE AVE # 6	BRONX	NY10451	1	95	7.74	FSY3218		
RUIZ MARIA A	769 MELROSE AVE # 6	BRONX	NY10451	2	350	20.28	FZY9858		
RUIZ MARIA I	374 PEARL ST # 2I	NEW YORK	NY10038	3	475	197.97	U951GM		
RUIZ MARIA M	9113 82ND ST FL1	WOODHAVEN	NY11421	1	75	34.14	CJP1662		
RUIZ MARIANNI E	13313 CROSSBAY 2	OZONE PARK	NY11417	2	250	16.80	FTE1353		
RUIZ MARIBEL	433 E 114TH ST # 3W	NEW YORK	NY10029	7	808	490.64	CVT8838		
RUIZ MARIBEL	430 OLMSTEAD AVE # 2	BRONX	NY10473	4	600	371.46	DCF4265		


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Click  below to display additional information on the violation. (A new window will open.)

Click  below to display the image of the issued parking ticket. (If you want to view your Notice of Liability or need a copy, you need to [contact us](#); NOL copies are not available online.) (A new window will open.)

Click  below to display the image of the issued bus lane violation. (If you want to view your Notice of Liability or need a copy, you need to [contact us](#); NOL copies are not available online.) (A new window will open.)

 [Adobe Acrobat Reader](#) (required to view images)

Outstanding Violations as of Thursday, May 1, 2014 02:48 PM

	Plate	Violation	Issued On	Description	Details	Image	Amount Due
1	FWF5689	7765797300	04/19/2014	REG. STICKER-EXPIRED/MISSING			65.00
							Total Due
							\$65.00

Items and amounts might not reflect recent payments made or violations issued in the last 4 weeks. To find a specific violation, search using the ticket or Notice of Liability number.

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